



The Attorney General of Texas

June 28, 1978

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Honorable Arnaldo Cantu
Executive Director
Hidalgo County Jobs for Progress, Inc.
P. O. Box 72
San Juan, Texas 78589

Open Records Decision No. 195

Re: Whether financial records
of Hidalgo County Jobs for
Progress, Inc., are public under
the Open Records Act.

Dear Mr. Cantu:

You have requested our decision as to whether financial records of Hidalgo County Jobs for Progress, Inc., are available to the public under the Open Records Act, article 6252-17a, V.T.C.S. Your primary contention is that the agency is not a "governmental body" as defined in section 2(F) of the act, and that, as a result, the act is not applicable to records in its custody.

Hidalgo County Jobs for Progress, Inc., is a nonprofit community action organization whose purpose is "to assist Mexican-Americans of low income status to improve their position in life through education, job training and job placement." More than 60 percent of the agency's budget is funded by the Department of Community Affairs of Hidalgo County. Other sources include the United States Department of Health, Education & Welfare, the Greater South Texas Cultural Basin Commission, and the Associated City-County Economic Development Corporation of Hidalgo County.

The Open Records Act defines "governmental body" to include, inter alia,

the part, section, or portion of every organization, corporation, commission, committee, institution, or agency which is supported in whole or in part by public funds, or which expends public funds. Public funds as used herein shall mean funds of the State of Texas or any governmental subdivision thereof

(Emphasis added). Section 2(F). Jobs for Progress, Inc., is an officially designated community action agency under the Economic Opportunity Act of 1964, 42 U.S.C. §§ 2781, et seq. It is undisputed that its entire operation is

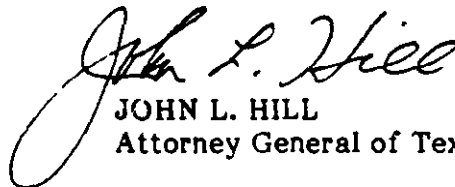
supported in part by funds of Hidalgo County, a governmental subdivision of the State of Texas. Under these facts, we believe that the agency is a "governmental body" within the scope of section 2(F) and therefore subject to the Open Records Act.

The information being sought in this instance consists of the agency's "budgets, contracts, applications for funding, sources of funding, and records of spending of such funds." In your initial letter requesting our decision, you failed to furnish us representative samples of the relevant documents, as required by section 7(b) of the Act. By letter of February 27, 1978, we requested that you provide these documents. On April 18, 1978, we renewed our request, and reminded you of the statutory requirement. Although you acknowledged receipt of this last letter on May 19, 1978, you again failed either to furnish the documents or to provide an explanation. Nor have you at any time indicated any specific exception of section 3(a) which you believe applicable to the information in question.

We note initially that, on the basis of the requestor's description of the documents sought, none of the exceptions of section 3(a) seem to be clearly applicable. Indeed, much of the information appears to constitute the kind of information "specifically made public" under section 6.

If a custodian of public records fails to request a decision from the attorney general, "the information shall be presumed to be public information" under section 7(a). See Open Records Decision No. 26 (1974). Section 7(b) requires that "the specific information requested shall be supplied to the attorney general." We believe that these two provisions must be read in harmony, so that, if a custodian fails to furnish the information at issue to the attorney general particularly after being requested to do so, the presumption of section 7(a) becomes operative. See Open Records Decision No. 150 (1977). Any other result would permit a custodian to thwart the operation of the act merely by refusing to permit the attorney general to examine disputed documents. It is therefore our decision that, on the basis of the presumption of section 7(a) of the Open Records Act, financial records of Hidalgo County Jobs for Progress, Inc., are public information and should be disclosed.

Very truly yours,

A handwritten signature in dark ink, appearing to read "John L. Hill". The signature is fluid and cursive, with a large initial "J" and "H".

JOHN L. HILL
Attorney General of Texas

APPROVED:


DAVID M. KENDALL, First Assistant
C. ROBERT HEATH, Chairman
Opinion Committee

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